

Transmittal of DEC Flood Hazard Area and River Corridor Protection Procedure

By the Department of Environmental Conservation

October 6, 2014

The Vermont General Assembly passed Act 138 in 2012 requiring the Agency of Natural Resources (ANR) to adopt a Procedure that will:

- Outline methods for assessing the sensitivity (i.e., stability) of rivers in the state; delineating river corridors based on sensitivity; and identifying where flood and fluvial erosion hazards pose a probable risk of harm to life, property, or public infrastructure;
- Aid and support the municipal adoption of river corridor, floodplain, and buffer bylaws; and
- Recommend best management practices for river corridors, floodplains, and buffers.

Acts 138 and Act 107 also required the State to adopt a Flood Hazard Area and River Corridor Rule with the authority to set standards in exceedance of the minimum regulatory standards required by the National Flood Insurance Program administered by FEMA. The Administrative Rule will apply to activities exempt from municipal regulation, i.e., state building and transportation projects, public utilities, and agricultural and silvicultural activities. The proposed Rule would establish a “no adverse impact” (NAI) standard, which essentially limits proposed state facilities or utilities from making any change in the height or velocity of floodwater that would increase inundation or erosion hazards.

The draft Flood Hazard Area and River Corridor Protection Procedure (attached) explains how the Department of Environmental Conservation (DEC) will utilize the same “no adverse impact” standard in providing technical assistance and regulatory recommendations to municipalities, Act 250, and other regulatory agencies. While NAI is the standard ANR has applied since 2004 in making Act 250 recommendations and under Criterion 1D for the NFIP floodway and the ANR river corridor¹, it is a higher standard to be met in the flood hazard area outside of the NFIP floodway recommending measures of compensatory storage when necessary.

The Procedures also explain how:

- a) Flood hazard areas, river corridor, and Act 250 floodways are delineated;
- b) Flood hazard area and river corridor maps are amended or revised by the Department and other parties;
- c) Waivers from the NAI standard are used to encourage land use planning for infill, redevelopment, and the shadowing of other structures; and
- d) Best practices may be used to promote stream and floodplain equilibrium conditions and the natural attenuation of flood sediments, heights, and velocities that influence flood inundation and fluvial erosion.

The River Corridor and Floodplain Protection Program will accept public comments until November 3, 2014. Written comments should be addressed to ANR.WSMDRivers@state.vt.us or DEC Rivers Program, Watershed Management Division, 1 National Life Drive, Main 2, Montpelier, VT 05620-3522 or

¹ ANR River Corridors are calculated and field-measured areas providing for the stream dynamics, meanders, and the riparian buffers necessary for the restoration and protection of naturally stable or least erosive river forms. Corridors show an area where any stream channelization measures used to protect development or other improvements contribute to an increase in fluvial erosion upstream and downstream and adversely affect public safety, riparian landowners, and river ecosystems.